N.A. No 62
9/11/43

G. R. S. App. F. IX-4]

1942-3 War File No. 148-42

Previous References. (War) Serial Nos. 1 to 5.

Later References.

P-1

GENERAL AND REVENUE SECRETARIAT

Serial Nos. ~~Five~~ only

Part B for ~~January~~ March 1943

SUBJECT.

494 Delegation of powers under Rules 78 A of Defence of India Rules.

T.N.Krishnamurthy
15.3.43.

1935
W.

Delegation of powers under Rule 78A of Defence (General) Regulations

Continuation Sheet. War File No. Current No. 148 of 42-3. Page.

Sl. 1 — From — Secy to Board of Revenue No 7 3(B) - 40 dy 22-12-42 Invites attention to Defence Dept & Prohibition Dept Notifns dy 26/9/42 & 26-11-42 re delegation of powers under rule 78A of Defence of India Rules.

T. U

(1) Send with the Secretary's copies of the notifns referred to. The said notifns designate the powers conferred on the Central Govt. under rule 78A to Commissioners of Revenue etc.

Power to require Criminal prosecutions work

(2) The powers vested in Govt. under the rule is to authorise any officer of Govt. to require any male person in any area to assist in the doing of work on land during an emergency.

2688

(3) Submit for orders.

Sd 31/12

(4) No action seems necessary

Sd 31/12

Sd

(5) Sd 31/12

WD 1140—GPB—50,000—5-11-42

(6) This is one of the instances in which Army Commanders may be invested with powers under R. of D Rules & the application of Martial Law postponed

(7) We have already given them some powers under Rule 17 in regard to telephones & under Rule 46 in regard to wireless telegraphy.

5075

(8) In the present instance, power may be delegated which it is asked for. (Dewan)

4/1/43

(9) Secy. Home Dept.

(10) The States represented in the Chamber are specially well fitted to exercise legislative powers (as well as residual powers) after the vested in the Crown Representative

4/1/43.

4/1

2165

Continuation Sheet.

File No.
Current No.

Delegation of Powers under rule 49 of 78 A of the Defence of India Rules to of Military Commanders.

OFFICE OF THE
MILITARY
JUN 16 1943
No. 6214

Sl. 2

From The Secretary to the Govt of India, Defence Department, F. 3(B)-43/42 dated 13th June 43 requesting to delegate powers to Military Commanders under this Section of the Defence of India Rules.

11) Kindly refer to the discussions before on the delegation of powers under Rule 78A on a previous communication from the Residency. The Residency has now requested the delegation of powers both under Rule 49 & 78A.

Govt of India Notification Rule 78A - No B
Rule 49 - A.

Submitted for general orders. Powers under Rule 49, can be delegated to D.O.s & under 78A to D.O.s, Assistants & Dy Assistants.

7.6.43 RS 15/6

12) Rule 49 relates to execution of orders of 78A to persons to render persons to do work & the request made that these powers may be delegated to Military Commanders. It does not seem necessary at this stage at any rate to delegate this power as on the requisitioning of the military this Govt can take action through Military.

15/6

13) It is not known that these powers can be given to the Military commanders.

15/6

14) Powers will have to be delegated

3861

(214

JAN 19 1943
6320

5504

but this appears to be scarcely necessary now in view of the present delegation.

in order to weaken the case for the Martial Law draft

Re
16/1

15) I am also of the view that ~~there~~ the delegation of power subject to the safeguards suggested is not open to the serious objection which we are urging in connection with the Martial Law proposals. However, I shall find out at Delhi how this proposal is viewed by the Indian States. Meanwhile the papers may be circulated to Ministers for receiving their opinions

Nil
17/1/43
Re
18/1
18/1

Submitted.
Re 18/1

16)
F & R. Minister) Nil 28/1

17)
Edn. Minister) Re 19/1

L.S.G. & P.H. Minister) 18) Re 26.1.43

Re 28/1

19) Noted
28/1

Dewan

OFFICE OF THE MINISTER FOR L. S. G. & P. H.
Date 19.1.43
No. 5606

FINANCE & REVENUE
2 JAN 1943
No 6116

OFFICE
29 JAN 1943
5825

WD 1140—GPB—50,000—5-11-42

2165/W. Dealing a note on powers under Rules 49 & 78 & 84 of Defence of India Rules to only Commanders

Continuation Sheet. 2369/W File No. Current No. Page.

5515

20) The powers are to be exercised only in an extreme emergency when it is impossible to get into touch with, or operate through the Civil authorities. Such a contingency is not likely to arise in Mysore State as both Military & Civil authorities have their headquarters in Bangalore. It would therefore be sufficient if the necessary drafts are kept ready for issue if & when the occasion demands

Mee
1/2/43

21) For Hon'ble Minister) P.C.
4/2
4/2

Sl.3 From The Secy to the Hon'ble the Resident. F. 3 (B) 40 dtd 5th Feby. 43 inviting reference to Defence Right Notification of 26th Decr. 42.

22) Subd for perusal. The previous Notification has been amended so as to include Commanding Officers of Sub. Areas.

P
RS 5/2

23) Please put up a draft Order as ordered by Dewan
5/2

24) Subd with 2 draft Notifications viz. under 49 & 78A

RS 6/2

25) Sir
6/2

2165
2369
2472 W

Delegation of powers under rules 49 and 78A of the Defence of India Rules to 148 Military H.Q. Cairo

Continuation Sheet. File No. Current No. 3 Page.

Sl 4/43

From The Secy to the Govt of India
F.3(B) 48/w d 17th July 43. Enquiries whether
a reply may be expected to this letter by 13th Aug 43

6405

6110

2b) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2c) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2d) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2e) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2f) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2g) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2h) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2i) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2j) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2k) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2l) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2m) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2n) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2o) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2p) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2q) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2r) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2s) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2t) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2u) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2v) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2w) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2x) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2y) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

2z) Kindly refer to correspondence ending with
Govt of India letter No 20 dated 29th May 43 and
state whether a reply may be expected to that letter by 13th Aug 43

RS 1/2 18/2

2a) Please dispose of the
Duties of the Secretariat mentioned at
page 20

18/2

RS 18/2

2b) Submitted with a draft for consideration

18/2

Thirty

For appr.

Secy 18/2

6474

2c) Secy

Secy
21/2/43

RS 22/2

3a) Submitted with a D.O.F.N

Secy

Submitted to His Highness.

The Residency, in their letter dated the 13th January 1943, have requested the Government of Mysore to delegate powers under Rule 49 of the Defence of India Rules, as applied to Mysore, to the British Indian Military Formation Commanders, on the understanding that these powers will not be exercised by the Military Commanders except in extreme emergency when it is impossible to get into touch with, or operate through, the civil authorities, and also to delegate powers under Rule 78 A to the Military Commanders of the Government of India. Rule 49 relates to power to order evacuation of certain areas in the event of actual or apprehended attack, and Rule 78 A deals with power to require certain persons to do work under similar circumstances.

Para 15 of 1943

I am of the view that the delegation of the powers, subject to necessary safeguards, is not open to any serious objection. The powers are to be exercised only in extreme emergency when it is impossible to get into touch with, or operate through, the civil authorities. Such a contingency is, however, not likely to arise in the State as both the military and civil authorities have their headquarters in Bangalore. It is, therefore, proposed, with the concurrence of the Ministers, to inform the Residency that the Government of Mysore will be prepared, when the occasion demands, to delegate the powers asked for. This may be graciously approved.

Paras 16 to 18 of 1943

N. Madhava Rao

DEWAN.

Bangalore,
24th February 1943.

Record of Cases submitted for the Orders of
His Highness the Maharaja.

Subject.

Proposal to delegate powers under Rules 49 and 78 A of the Defence of India Rules to the British Indian Military Commanders.

Order.

JRW.
26/2/'43

No. 622

Chief [illegible]
[illegible]

General and Revenue

Secretariat.

e 774.

SUBJECT:—

Proposal to delegate powers under Rules 49 and 78 A of the Defence of India Rules to the British Indian Military Commanders.

(*)

14. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

16. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

17. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders

Circulated to Council of Ministers for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 14, 16 and 17 of the Subsidiary Rules of the Mysore Government Business Rules.) (*)

1/3

Chief Secretary to Government.

Through the Secretary to Government,

.....Department.

7527/1·3·42

Minister for Finance and Revenue. 6·3·42

~~Minister for Law.~~

4701/63

Minister for Education. 6.3.63

230/43

Minister for Local Self-Govt. and Public Health. 8.3.63

Wadiar

NOTE.—Contn. sheet

WD 0718—GPB—1,000—11-9-42

1935
2165
2369
2497

Continuation Sheet.

Delegation of powers under Rules 49 and 78 of Regs of Defence (India Rules) Military

W File No. / Current No. 118 of 42-3 Page. Commander

✓ Sd. Issues Pd. 1784 d 9° Mod. 40 to a Rly

W 148-42-1 1935

From

The Secretary to the Hon'ble
the Resident in Mysore.

To

The Chief Secretary to the
Government of His Highness
the Maharaja of Mysore
Bangalore

Memorandum No.F.3(B)-40/W
Dated Bangalore the 22nd December 1942

Delegation of powers under
Defence of India Rule 78A to
Military Commanders.

Attention is invited to the Government of India, Defence Department, notification No.872-SM/1/41, dated the 26th September 1942, published in Part I of the Gazette of India of the same date, and to the Political Department Notification No.80-W, dated the 26th November 1942 published in Part I-A of the Gazette of India dated the 28th November 1942.

for SECRETARY TO THE RESIDENT.

The reply to this communication should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

SECRET. W148-42-2. 2165 W

No. F.3(B)-40/W.

Encl 6)

FROM

THE SECRETARY
TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore,
Bangalore.

Dated Bangalore, the 13th January *1943*

Delegation of powers under rules 49 and 78A of the Defence of India Rules to Military Commanders.

SIR,

I am directed to forward a copy each of the communications noted in the margin and to request that, if there is no objection, the Government of Mysore will be so good as to delegate powers under their version of the Defence of India Rules 49 to the British Indian Military Formation Commanders, it being understood that these powers will not be exercised by the Military Commanders except in extreme emergency when it is impossible to get into touch with, or to operate through, the civil authorities.

1. Government of India (Defence Department) letter to all Provincial Governments etc., No.1553-OR/42, dated the 29th August 1942.
2. Government of India (Defence Department) Press Note dated the 30th August 1942.
3. General Headquarters, India (G.S.Branch) letter to Armies/Command, No.50676/M.O.2, dated the 2nd September 1942.
4. Government of India (Defence Department) letter to all Provincial Governments, etc.No.1553-OR/42, dated the 10th December 1942.

2. As regards compensation (which is provided for in Defence of India rule 96) for action taken by the Military Commanders of the Government of India under the State version of the Defence of India Rules, the Government of India would adjudicate, and where they think fit, meet claims for compensation arising out of action taken by Military Commanders under the Government of India in regard to property in Indian States which would be admissible in British India under Defence of India Rules 49/96.

3. The Government of India have also delegated powers under rule 78A of the Defence of India Rules to Military Commanders, and I am to request that the Government of Mysore will be so good as to make a similar delegation under their version of this rule to Military Commanders of the Government of India. In this connection I am to invite attention to the Government of India (Defence Department) notification No.872-SM/1/41, dated the 26th September 1942, published in Part I of the Gazette of India of the same date.

4. I am to request that the action taken by the Government of Mysore may kindly be communicated to this Residency, as soon as possible, for communication to the Government of India.

I have the honour to be,
Sir,
Your most obedient servant,

SECRETARY TO THE RESIDENT.

No.1553-OR/42.
Government of India.
Defence Department.

New Delhi, the 29th August 1942

To

All Chief Secretaries (except Bombay and the Punjab).
The Home Secretary to the Government of Bombay.
The Joint Secretary to the Government of the Punjab, Home Department.
All Chief Commissioners (except Andaman and Nicobar Islands).

Military Commanders faced with an enemy attack may wish areas to be cleared etc. under rule 49 of the Defence of India Rules. While it is recognised that powers under this rule ought normally to be used by the civil authorities, cases may nevertheless arise where urgent action is required and the Military Commanders concerned cannot get into touch with the appropriate civil authority. To meet this contigency, the Government of India have delegated powers to Military Commanders in the notification of which a copy is *enclosed. This was published in the Gazette of India dated the 22nd August 1942.

2. Instructions are being issued to Military Commanders that they should not use their powers except in extreme emergency when it is impossible to get into touch with or to operate through the civil authorities.

not enclosed.

Sd./- L.J.D.Wakely,
Deputy Secretary to the Government of India.

------:o:------

Press Note.

Commanders of Armies, Corps, Divisions, Districts, Brigades and Areas have been authorised to make orders under Defence of India Rule 49, which deals with the evacuation of certain areas in the event of an actual or apprehended enemy attack. This delegation of powers has been made as a precautionary measure, to guard against the possibility that, if an invasion did occur, Military Commanders requiring areas to be cleared might not be able to get into touch with the civil authorities concerned. Military Commanders will not exercise these powers except in such circumstances, and this delegation in no way portends any sudden intensification of evacuation measures or their immediate transfer to military control.

Defence Department.
August 30th, 1942.

****

S e c r e t. Copy of letter No.50676/M.O.2, dated New Delhi, the 2nd September 1942, from General Headquarters, India, General Staff Branch, to Headquarters, North Western Army, etc., etc.

Powers under Defence of India Rule 49.

-:o:-

The powers conferred on the Central Government by rule 49 of the Defence of India Rules have been delegated in Notification No.1553-OR/42 dated 22 Aug.'42, in the Gazette of India, to all Commanders of Armies, Corps, Divisions, Districts, Brigades and Areas. The purpose of the delegation is to guard against the possibility that, in the event of an enemy attack, military commanders requiring areas to be cleared might not be able to get into touch with civil authorities concerned.

2. Except when such a course would prejudice security or the effectiveness of the proposed action, or when it is impossible to communicate with the appropriate civil authorities for the purpose, recourse will invariably be had to the civil authorities for the clearing of areas under this Rule.

------:o:------

No.1553.OR/42.
Government of India.
Defence Department.

New Delhi, the 10th December 1942.

To

All Chief Secretaries (except Bombay and the Punjab).
The Home Secretary to the Government of Bomabay.
The Joint Secretary to the Government of the Punjab, Home Departmen
All Chief Commissioners (except Andaman and Nicobar Islands.).

Please refer to this Department's letter No.1553-OR/42, dated the 29th August 1942, regarding the delegation of powers under rule 49 of the Defence of India Rules to Military Commanders.

2. The Government of India have received references expressing anxiety about such questions as where persons evacuated are to go, what provision will be made for their feeding and accommodation etc. It is hardly possibly to foresee when Military Commanders may have to use these powers,the size of the areas which may be affected, or the number of persons involved. The use of the powers would however clearly be made more effective, and hardship and confusion avoided, if arrangements for the matters referred to above were so far as possible made. The Government of Indiado not doubt that that the Provincial Government and the Military Commander have these problems under consideration. In view of the representations which have been made to them, however, they think that it will be out of place to draw attention to them.

Sd/- L.J.D.Wakely,
Deputy Secretary to the Govt. of India.

****

map

W148-42-3. 2369/W

SECRET.

No.F.3(B)-40/W.

From

The Secretary to the Hon'ble
the Resident in Mysore.

To

The Chief Secretary to the
Government of Mysore,
Bangalore.

CHIEF
War
5 FEB 19

Bangalore the 5th Feb. 1943.

Delegation of powers under Rules 49 and 78A of the Defence of India Rules to Military Commanders.

Sir,

I am directed to refer to paragraph 3 of letter from this Residency No.F.3(B)-40/W, dated the 13th January 1943, and to invite attention to the Government of India (Defence Department) notification No.872-SM/42, dated the 26th December 1942, published in Part I of the Gazette of India of the same date.

I have the honour to be
Sir
Your most obedient servant

for SECRETARY TO THE RESIDENT.

F.3(B)-40/W 2472
W 148-42-4 SECRET. W

From

The Secretary to the Hon'ble
the Resident in Mysore.

To

The Chief Secretary to the
Government of His Highness the
Maharaja of Mysore,
Bangalore.

17. Bangalore, 17/4 Feby. '43

Delegation of powers under rules 48 and 78A of the Defence of India Rules to Military Commanders.

Sir,

I am directed to refer to my letter No.F.3(B)-40/W, dated the 13th January 1943, and to enquire when a reply may be expected.

I have the honour to be,
Sir,
Your most obedient servant,

/Kalaman Nair

for SECRETARY TO THE RESIDENT.

C.S.Rao

Appendix F. G.—1]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *194* .

Date of issue.....

Signed by.....

List of enclosures.....

Copied by.....

Examined by.....

Section

File No.

Serial No.

No.

To

Notification

In exercise of the powers conferred by sub section (4) of Section 2 of the Defence of India Act 1939 as applied to Mysore, the Govt of the Mahraja are pleased to direct that the powers conferred on them by rule 78 A of the Defence of India Rules shall be exercisable also by all Commanders of Armies, Corps, Divisions, Districts, Brigades or Areas and Sub. Areas within their respective jurisdiction.

Sd/-

Chief Secretary to Govt

Military Commanders of the Govt of India

Memo

Complete MS
Govt Chop
D M 7/Dec

Appendix F. G.—1]

SUBJECT.....

.....

.....

Section

File No.

Serial No.

Diary No. of letter replied to.....

No.

To Notification

General and Revenue Secretariat

( )

the *194*

Date of issue.....

Signed by.....

In exercise of the powers conferred by sub section (4) of section 2 of the Defence of India Act 1939 as applied to Mysore, the Govt of H.H. the Maharaja are pleased to direct that the powers conferred on them by Rule 4 of the Defence of India Rules shall be exercisable also by all Commanders of Troops, Corps Districts, Districts, Brigades and Area within their respective jurisdictions.

the Provincial Indian Military formation commanders

B. O

List of enclosures.....

Copied by.....

Examined by.....

Chief Secretary to Govt

WD 04161—GPB—60,000—21-10-41

Complete MS.

Mem

Ist Chro

DS 25th

Appendix F. G.—1]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *194*

Date of issue.... 9. 3. 1934

Signed by.... Ms. S. K. V.

List of enclosures.....

Copied by.....

Examined by.....

Section War

File No. 148-42

Serial No. 5.

Secret

No. R/1784

To The Secy to the Govt of India in the Defence Department

Delegation of powers under rules 49 and 78 A of the Defence of India Rules to Military Commanders.

Sir,

With reference to your letter No F. 3(B)-40/W & D (3°) Jas. 43 on the above subject, I am directed to state that the powers sought to be delegated to Military Commanders may be exercised only in an extreme emergency when it is impossible or difficult to get into touch with or operate through the Civil authorities and such a contingency is not likely to arise in the Mysore State as both military and civil authorities have their Head Qrs in

however
Bangalore. I am to add
that ~~there is~~ no objection to the
powers asked for being delegated
if and when the occasion demands

I have &c

for
18/2/43
Chief Secretary to Govt
18/2/43

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat,

Bangalore, Dated, 9th March 1943.

No. Pol 1784

From

The Chief Secretary to the Government of His Highness the Maharaja of Mysore.

To

The Secretary to the Hon'ble the Resident in Mysore,
Bangalore.

Sir,

Delegation of powers under Rules 49 and 78A. of the Defence of India Rules to Military Commanders.

***

With reference to your letter No.F.3(B)-40/W. dated 13th January 1943 on the above subject, I am directed to state that the powers are presumably to be exercised by Military Commanders only in an extreme emergency when it is impossible or to get into touch with or operate through the Civil authorities. Such a contingency is not likely to arise in the Mysore State as both Military and Civil authorities have their Headquarters in Bangalore. I am however, to add that this Government will have no objection to the powers asked for being delegated if and when the occasion demands.

I have the honour to be
Sir,
Your most obedient servant,

for Chief Secretary to Government.